

**ASSEMBLY BILL**

**No. 1309**

**Introduced by Assembly Member Goldberg**

February 21, 2003

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An act to add Section 35276 to the Education Code, relating to school facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1309, as introduced, Goldberg. Eminent domain: displaced residential or commercial development.

Existing law authorizes the governing board of a school district to acquire by eminent domain any property necessary to carry out any of the powers and functions of the board.

This bill would, in addition, authorize the board to acquire by eminent domain any property necessary to replace existing residential or commercial development displaced by school construction.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 35276 is added to the Education Code,  
2 to read:  
3 35276. (a) The governing board of any school district may  
4 acquire by eminent domain any property necessary to replace  
5 existing residential or commercial development displaced by  
6 school construction if the school district has acquired real property  
7 to be used for purposes of school facilities construction or  
8 expansion, and that acquisition has directly resulted, or will result,

1 in the displacement of existing residential or commercial  
2 development.

3 (b) The number of dwelling units developed on the acquired  
4 real property shall be equal to the sum of the number of dwellings  
5 occupied by the displaced persons moving from the property  
6 acquired for purposes of constructing or expanding school  
7 facilities plus the number of dwelling units occupied by persons  
8 legally residing on the property to be acquired for replacement  
9 housing.

10 (c) The dwelling units developed on the property shall be  
11 maintained at rents as affordable to the occupants of the dwelling  
12 units displaced by the acquisition of the property for construction  
13 or expansion of the school facilities as those rents that the  
14 occupants paid immediately preceding the acquisition by eminent  
15 domain.

16 (d) Notwithstanding any provision of this title to the contrary,  
17 the conveyance of the property for the construction of replacement  
18 facilities is not subject to the requirements of Article 4  
19 (commencing with Section 17455) of Chapter 4 of Part 10.5 or any  
20 other provisions of law regulating the disposition of surplus school  
21 property. After the school district acquires the real property for  
22 replacement of existing residential or commercial development,  
23 the school district may dispose of such property in any of the  
24 following ways:

25 (1) Convey the property for fair market value to a private  
26 developer in the manner required by law for the purpose of  
27 constructing replacement facilities on that property.

28 (2) Enter into a joint venture with a private developer pursuant  
29 to the requirements of Article 5 (commencing with Section 17060)  
30 of Chapter 12 of Part 10. Under the terms of the joint venture, the  
31 school district may convey the property for fair market value to the  
32 private developer for the purpose of constructing replacement  
33 facilities on the property.

34 (3) Convey the property for fair market value to the owner of  
35 any property adjacent to the schoolsite, if the owner of the property  
36 agrees to construct the replacement facilities and to set aside a  
37 portion of the property for park, recreation, and open space  
38 purposes.

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